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waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable subpart D levels, the waste is prohibited from land disposal, and all requirements of this part are applicable, except as otherwise specified.

[66 FR 58298, Nov. 20, 2001]

§ 268.37 Waste specific prohibitions—ignitable and corrosive characteristic wastes whose treatment standards were vacated.

(a) Effective August 9, 1993, the wastes specified in 40 CFR 261.21 as D001 (and is not in the High TOC Ignitable Liquids Subcategory), and specified in § 261.22 as D002, that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. CWA-equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or greater than these technologies.

(b) Effective February 10, 1994, the wastes specified in 40 CFR 261.21 as D001 (and is not in the High TOC Ignitable Liquids Subcategory), and specified in § 261.22 as D002, that are managed in systems defined in 40 CFR 144.6(e) and 146.6(e) as Class V injection wells, that do not engage in CWA-equivalent treatment before injection, are prohibited from land disposal.

[58 FR 29885, May 24, 1993]

§ 268.38 Waste specific prohibitions—newly identified organic toxicity characteristic wastes and newly listed coke by-product and chlorotoluene production wastes.

(a) Effective December 19, 1994, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151 are prohibited from land

disposal. In addition, debris contaminated with EPA Hazardous Waste numbers F037, F038, K107–K112, K117, K118, K123–K126, K131, K132, K136, U328, U353, U359, and soil and debris contaminated with D012–D043, K141–K145, and K147–K151 are prohibited from land disposal. The following wastes that are specified in 40 CFR 261.24, Table 1 as EPA Hazardous Waste numbers: D012, D013, D014, D015, D016, D017, D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, D043 that are not radioactive, or that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that are zero dischargers that do not engage in CWA-equivalent treatment before ultimate land disposal, or that are injected in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), are prohibited from land disposal. CWA-equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or better than these technologies.

(b) On September 19, 1996, radioactive wastes that are mixed with D018–D043 that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. CWA-equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or greater than these technologies. Radioactive wastes mixed with K141–K145, and K147–K151 are also prohibited from land disposal. In addition, soil

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and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

(c) Between December 19, 1994 and September 19, 1996, the wastes included in paragraphs (b) of this section may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in § 268.5(h)(2) of this Part.

(d) The requirements of paragraphs (a), (b), and (c) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in Subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable alternate treatment standards established pursuant to a petition granted under § 268.44;

(4) Persons have been granted an extension to the effective date of a prohibition pursuant to § 268.5, with respect to these wastes covered by the extension.

(e) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in § 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Subpart D levels, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

[59 FR 48045, Sept. 19, 1995]

§ 268.39 Waste specific prohibitions—spent aluminum potliners; reactive; and carbamate wastes.

(a) On July 8, 1996, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K156-K159, and K161; and in 40 CFR 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409-U411

are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

(b) On July 8, 1996, the wastes identified in 40 CFR 261.23 as D003 that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. This prohibition does not apply to unexploded ordnance and other explosive devices which have been the subject of an emergency response. (Such D003 wastes are prohibited unless they meet the treatment standard of DEACT before land disposal (see § 268.40)).

(c) On September 21, 1998, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste number K088 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

(d) On April 8, 1998, radioactive wastes mixed with K088, K156-K159, K161, P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409-U411 are prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

(e) Between July 8, 1996, and April 8, 1998, the wastes included in paragraphs (a), (c), and (d) of this section may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in § 268.5(h)(2).

(f) The requirements of paragraphs (a), (b), (c), and (d) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in Subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition;